

REFERENCE TITLE: well water; Colorado; Santa Cruz

State of Arizona  
House of Representatives  
Forty-eighth Legislature  
First Regular Session  
2007

## **HB 2485**

Introduced by  
Representatives Mason: Bradley, Burns J, Konopnicki, Tobin

### **AN ACT**

AMENDING SECTION 45-576, ARIZONA REVISED STATUTES; REPEALING SECTION 45-596, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2006, CHAPTER 56, SECTION 2; AMENDING TITLE 45, CHAPTER 2, ARTICLE 10, ARIZONA REVISED STATUTES, BY ADDING SECTION 45-596.01; RELATING TO THE GROUNDWATER CODE; PROVIDING FOR CONDITIONAL ENACTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 45-576, Arizona Revised Statutes, is amended to  
3 read:

4 45-576. Certificate of assured water supply; designated cities,  
5 towns and private water companies; exemptions;  
6 definition

7 A. A person who proposes to offer subdivided lands, as defined in  
8 section 32-2101, for sale or lease in an active management area shall apply  
9 for and obtain a certificate of assured water supply from the director prior  
10 to presenting the plat for approval to the city, town or county in which the  
11 land is located, where such is required, and prior to filing with the state  
12 real estate commissioner a notice of intention to offer such lands for sale  
13 or lease, pursuant to section 32-2181, unless the subdivider has obtained a  
14 written commitment of water service for the subdivision from a city, town or  
15 private water company designated as having an assured water supply pursuant  
16 to this section.

17 B. A city, town or county may approve a subdivision plat only if the  
18 subdivider has obtained a certificate of assured water supply from the  
19 director or the subdivider has obtained a written commitment of water service  
20 for the subdivision from a city, town or private water company designated as  
21 having an assured water supply pursuant to this section. The city, town or  
22 county shall note on the face of the approved plat that a certificate of  
23 assured water supply has been submitted with the plat or that the subdivider  
24 has obtained a written commitment of water service for the proposed  
25 subdivision from a city, town or private water company designated as having  
26 an assured water supply pursuant to this section.

27 C. The state real estate commissioner may issue a public report  
28 authorizing the sale or lease of subdivided lands only on compliance with  
29 either of the following:

30 1. The subdivider, owner or agent has obtained a certificate of  
31 assured water supply from the director and has paid any activation fee  
32 required under section 48-3772, subsection A, paragraph 7 and any  
33 replenishment reserve fee required under section 48-3774.01, subsection A,  
34 paragraph 2.

35 2. If the subdivider has obtained a written commitment of water  
36 service for the lands from a city, town or private water company designated  
37 as having an assured water supply pursuant to this section and the  
38 subdivider, owner or agent has paid any activation fee required under section  
39 48-3772, subsection A, paragraph 7.

40 D. The director shall designate private water companies in active  
41 management areas that have an assured water supply. If a city or town  
42 acquires a private water company that has contracted for central Arizona  
43 project water, the city or town shall assume the private water company's  
44 contract for central Arizona project water.

1 E. The director shall designate cities and towns in active management  
2 areas where an assured water supply exists. If a city or town has entered  
3 into a contract for central Arizona project water, the city or town is deemed  
4 to continue to have an assured water supply until December 31,  
5 1997. Commencing on January 1, 1998, the determination that the city or town  
6 has an assured water supply is subject to review by the director and the  
7 director may determine that a city or town does not have an assured water  
8 supply.

9 F. The director shall notify the mayors of all cities and towns in  
10 active management areas and the chairmen of the boards of supervisors of  
11 counties in which active management areas are located of the cities, towns  
12 and private water companies designated as having an assured water supply and  
13 any modification of that designation within thirty days of the designation or  
14 modification. If the service area of the city, town or private water company  
15 has qualified as a member service area pursuant to title 48, chapter 22,  
16 article 4, the director shall also notify the conservation district of the  
17 designation or modification and shall report the projected average annual  
18 replenishment obligation for the member service area based on the projected  
19 and committed average annual demand for water within the service area during  
20 the effective term of the designation or modification subject to any  
21 limitation in an agreement between the conservation district and the city,  
22 town or private water company. For each city, town or private water company  
23 that qualified as a member service area under title 48, chapter 22 and was  
24 designated as having an assured water supply before January 1, 2004, the  
25 director shall report to the conservation district on or before January 1,  
26 2005 the projected average annual replenishment obligation based on the  
27 projected and committed average annual demand for water within the service  
28 area during the effective term of the designation subject to any limitation  
29 in an agreement between the conservation district and the city, town or  
30 private water company. Persons proposing to offer subdivided lands served by  
31 those designated cities, towns and private water companies for sale or lease  
32 are exempt from applying for and obtaining a certificate of assured water  
33 supply.

34 G. This section does not apply in the case of the sale of lands for  
35 developments that are subject to a mineral extraction and processing permit  
36 or an industrial use permit pursuant to sections 45-514 and 45-515.

37 H. The director shall adopt rules to carry out the purposes of this  
38 section. On or before January 1, 2008, the rules shall provide for a  
39 reduction in water demand for an application for a designation of assured  
40 water supply or a certificate of assured water supply if a gray water reuse  
41 system will be installed that meets the requirements of the rules adopted by  
42 the department of environmental quality for gray water systems and if the  
43 application is for a certificate of assured water supply, the land for which  
44 the certificate is sought must qualify as a member land in a conservation  
45 district pursuant to title 48, chapter 22, article 4. For the purposes of

1 this subsection, "gray water" has the same meaning prescribed in section  
2 49-201.

3 I. If the director designates a municipal provider as having an  
4 assured water supply under this section and the designation lapses or  
5 otherwise terminates while the municipal provider's service area is a member  
6 service area of a conservation district, the municipal provider or its  
7 successor shall continue to comply with the consistency with management goal  
8 requirements in the rules adopted by the director under subsection H of this  
9 section as if the designation was still in effect with respect to the  
10 municipal provider's designation uses. When determining compliance by the  
11 municipal provider or its successor with the consistency with management goal  
12 requirements in the rules, the director shall consider only water delivered  
13 by the municipal provider or its successor to the municipal provider's  
14 designation uses. A person is the successor of a municipal provider if the  
15 person commences water service to uses that were previously designation uses  
16 of the municipal provider. Any groundwater delivered by the municipal  
17 provider or its successor to the municipal provider's designation uses in  
18 excess of the amount allowed under the consistency with management goal  
19 requirements in the rules shall be considered excess groundwater for purposes  
20 of title 48, chapter 22. For the purposes of this subsection, "designation  
21 uses" means all water uses served by a municipal provider on the date the  
22 municipal provider's designation of assured water supply lapses or otherwise  
23 terminates and all recorded lots within the municipal provider's service area  
24 that were not being served by the municipal provider on that date but that  
25 received final plat approval from a city, town or county on or before that  
26 date. Designation uses do not include industrial uses served by an  
27 irrigation district under section 45-497.

28 J. For the purposes of this section, "assured water supply" means all  
29 of the following:

30 1. Sufficient groundwater, surface water or effluent of adequate  
31 quality will be continuously available to satisfy the water needs of the  
32 proposed use for at least one hundred years. Beginning January 1 of the  
33 calendar year following the year in which a groundwater replenishment  
34 district is required to submit its preliminary plan pursuant to section  
35 45-576.02, subsection A, paragraph 1, with respect to an applicant that is a  
36 member of the district, "sufficient groundwater" for the purposes of this  
37 paragraph means that the proposed groundwater withdrawals that the applicant  
38 will cause over a period of one hundred years will be of adequate quality and  
39 will not exceed, in combination with other withdrawals from land in the  
40 replenishment district, a depth to water of one thousand feet or the depth of  
41 the bottom of the aquifer, whichever is less. In determining depth to water  
42 for the purposes of this paragraph, the director shall consider the  
43 combination of:

44 (a) The existing rate of decline.

45 (b) The proposed withdrawals.

1 (c) The expected water requirements of all recorded lots that are not  
2 yet served water and that are located in the service area of a municipal  
3 provider.

4 2. FOR ACTIVE MANAGEMENT AREAS OTHER THAN THE SANTA CRUZ ACTIVE  
5 MANAGEMENT AREA, the projected groundwater use is consistent with the  
6 management plan and achievement of the management goal for the active  
7 management area. FOR THE SANTA CRUZ ACTIVE MANAGEMENT AREA, THE PROJECTED  
8 USE OF WATER, OTHER THAN STORED WATER, WITHDRAWN FROM A WELL IS CONSISTENT  
9 WITH THE MANAGEMENT PLAN AND ACHIEVEMENT OF THE MANAGEMENT GOALS FOR THE  
10 ACTIVE MANAGEMENT AREA.

11 3. The financial capability has been demonstrated to construct the  
12 water facilities necessary to make the supply of water available for the  
13 proposed use, including a delivery system and any storage facilities or  
14 treatment works. The director may accept evidence of the construction  
15 assurances required by section 9-463.01, 11-806.01 or 32-2181 to satisfy this  
16 requirement.

17 Sec. 2. Repeal

18 Section 45-596, Arizona Revised Statutes, as amended by Laws 2006,  
19 chapter 56, section 2, is repealed.

20 Sec. 3. Title 45, chapter 2, article 10, Arizona Revised Statutes, is  
21 amended by adding section 45-596.01, to read:

22 45-596.01. Additional information required with notice of  
23 intention to drill well to pump Colorado river  
24 water; exception

25 IN ADDITION TO THE INFORMATION REQUIRED BY SECTION 45-596, A PERSON WHO  
26 FILES A NOTICE OF INTENTION TO DRILL A WELL THAT WILL PUMP COLORADO RIVER  
27 WATER SHALL INCLUDE WITH THE NOTICE PROOF THAT THE DIRECTOR DETERMINES TO BE  
28 SATISFACTORY THAT THE PERSON HAS THE LEGAL RIGHT TO USE COLORADO RIVER WATER.  
29 THIS SECTION DOES NOT APPLY TO A PROPOSED WELL THAT WILL HAVE A PUMP WITH A  
30 MAXIMUM CAPACITY OF NOT MORE THAN THIRTY-FIVE GALLONS PER MINUTE AND THAT  
31 WILL BE USED FOR THE SUPPLY, SERVICE AND ACTIVITIES OF HOUSEHOLDS AND PRIVATE  
32 RESIDENCES, INCLUDING THE APPLICATION OF WATER TO LESS THAN TWO ACRES OF LAND  
33 TO PRODUCE PLANTS OR PARTS OF PLANTS FOR SALE OR HUMAN CONSUMPTION OR FOR USE  
34 AS FEED FOR LIVESTOCK, RANGE LIVESTOCK OR POULTRY, AS THOSE TERMS ARE DEFINED  
35 IN SECTION 3-1201.

36 Sec. 4. Effective date; condition; notice

37 A. Section 45-596.01, Arizona Revised Statutes, as added by this act,  
38 does not become effective until thirty days after the date final regulations  
39 for administering entitlements to Colorado river water in the lower Colorado  
40 river basin are published in the federal register.

41 B. The director of water resources shall promptly provide written  
42 notice to the secretary of state and the executive director of the Arizona  
43 legislative council of the date final regulations for administering  
44 entitlements to Colorado river water in the lower Colorado river basin are  
45 published in the federal register.